

# PDC Interpretation

APPROVAL DATE:	July 24, 2001	NUMBER:	01-02
STATUS:	Approved	SUPERSEDES:	None
REFERENCES:	RCW 42.17.640 Amended by HB 1770 (Chap. 208, Laws of 2001)	APPROVED BY:	The Commission
SEE ALSO:	RCW 42.17.660; WAC 390-16-309 and WAC 390-16-311 WAC 390-17-300 and WAC 390-17-400(1)		

## Contributions to State Office Candidates Who Lose the Primary Election

### Background:

On July 22, 2001 House Bill 1770 is effective. Chapter 208, Laws of 2001. This act amends RCW 42.17.640 to allow contributions to be made to a statewide executive or legislative candidate or a candidate's authorized committee with respect to a primary election until thirty days after the primary.

The following conditions apply: (1) The candidate must have lost in the primary; (2) the candidate's authorized committee must not have the funds to pay debts outstanding as of the date of the primary; and (3) the contributions may only be raised and spent to satisfy the outstanding debt.

The Commission intends to adopt rules to implement this new act. However, RCW 42.17.370(1) provides that if a Commission rule related to campaign finance is not in place on or before June 30, it will not take effect until after that year's general election. Since HB 1770's effective date is after that rules cutoff, the Commission is unable to adopt rules to implement this new act at this time. However, in the interim, in order to provide guidance to filers until new rules are in place, the Commission adopts the following interpretation.

## **Interpretation:**

### **Contributions after the Primary Election.**

(1) According to RCW 42.17.640(1), the date of the primary is the last day for making primary-related contributions unless a state office candidate loses in the primary, that candidate's authorized committee has insufficient funds to pay debts outstanding as of the date of the primary, and the contributions are used to satisfy this outstanding debt.

(2) Any contribution made up to 30 days after the primary election pursuant to RCW 42.17.640(1) is aggregated with contributions made on or before the date of the primary from the same contributor, and any person with whom that contributor is affiliated under RCW 42.17.660 and WACs 390-16-309 and 390-16-311, for purposes of the contribution limit in RCW 42.17.640.

(3) The day following the primary election is considered the first day of the 30-day period during which contributions may be made to state office candidates who lose in the primary election and who have outstanding primary debts.

(4) For purposes of RCW 42.17.640(1) and this interpretation, "outstanding primary debts", "outstanding debts" and "debts outstanding" all mean:

(a) unpaid primary-election related debts incurred on or before the date of the primary by the authorized committee of a candidate who lost the primary election for a state office; and,

(b) reasonable costs associated with activities of the losing candidate's authorized committee necessary to retire the primary-related debts it incurred on or before the date of the primary. Examples of such reasonable costs include:

- (i) necessary administrative expenses (office space rental, staff wages, taxes, supplies, telephone and computer costs, postage, and the like) for activities actually and directly related to retiring the committee's debt; and
- (ii) necessary expenses actually and directly related to the fund raising activities undertaken to retire the debt, as long as all persons solicited for contributions are notified that the contributions are subject to that contributor's primary election limit for that losing candidate.

(5) Nothing in this interpretation is to be construed as authorizing contributors to make, or state office candidates who lose the primary to receive, contributions that are used for a purpose not specifically authorized by RCW 42.17.640(1), including use for some future election or as surplus funds.

(6) All contributions received in excess of the sum needed to satisfy outstanding primary debts shall be returned to the original contributors in an amount not to exceed the amount contributed in accordance with the First In, First Out accounting principle wherein the most recent contribution received is the first to be returned until all excess funds are returned to contributors.